

PT 99-37  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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KOREAN PRESBYTERIAN CHURCH	)		
OF DANVILLE	)	Docket #	97-92-30
	)		
Applicant	)	A.H. Docket #	98-PT-0019
	)		
v.	)	Parcel Index #	18-32-124-003-0040
	)		
	)	Barbara S. Rowe	
THE DEPARTMENT OF REVENUE	)	Administrative Law Judge	
OF THE STATE OF ILLINOIS	)		

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Bruce Meachum, Meachum & Meachum for the Korean Presbyterian Church of Danville.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue (hereinafter referred to as the "Department") on September 15, 1998, to determine whether or not Vermilion County Parcel Index No. 18-32-124-003-0040 qualified for exemption during the 1997 assessment year.

Reverend Woo-Hong, Pastor of the Korean Presbyterian Church of Danville (hereinafter referred to as the "Applicant") and Ms. Kim Barton, Treasurer and member of the applicant, were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel

during the 1997 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether this parcel was used by the applicant for exempt religious purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during a portion of the 1997 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used the parsonage located on the subject property for religious purposes during the portion of the 1997 assessment year that it owned the parcel.

Findings of Fact:

1. The jurisdiction and position of the Department that Vermilion County Parcel Index No. 18-32-124-003-0040 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 10)

2. On January 23, 1998, the Department received a property tax exemption application from the Vermilion County Board of Review for Permanent Parcel Index No. 18-32-124-003-0040 for the 1997-assessment year. The applicant had submitted the request and the board recommended granting a partial exemption from July through December 1997. The Department assigned Docket No. 97-92-30 to the application. (Dept. Grp. Ex. No. 2)

3. On January 23, 1998, the Department denied the requested exemption application finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing conducted at the Department's offices in Springfield, Illinois on September 15, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired an interest in the subject parcel by a warranty deed dated July 15, 1997. The deed conveyed property to Choon S. Yu, his wife Myung J. Yu, and the applicant. Dr. Choon S. Yu is a Trustee and President of the congregation of the applicant.

Myung J. Yu is an elder of the church. The elders are the ruling body of applicant's church. (Dept. Ex. No. 2 pp. 6-8; Applicant's Ex. Nos. 1, 5, 8; Tr. pp. 13, 33)

7. The reason that the conveyance was to Choon S. Yu and Myung J. Yu, as well as the applicant, was because the mortgage loan for the property was made to the Yus. (Dept. Ex. No. 2 p. 3; Applicant's Ex. No. 10)

8. The applicant applied to various lending institutions for the mortgage on the subject parcel. Because the membership of the applicant is low, the lending institutions were hesitant to grant the loan to the applicant. The only way the applicant was able to secure a loan was by having Dr. and Mrs. Yu as co-owners of the property and obligated on the mortgage for payments. It was a requirement of the lender before they would make the loan. (Applicant's Ex. No. 10; Tr. pp. 27-30)

9. Applicant was founded in 1980 with 10 members. The church at the time of the hearing had approximately 25-30 members. (Tr. p. 13-14)

10. The applicant supports missionary work in Thailand, Mongolia, and Korea with a \$1,000.00 donation annually to each organization. At one time, the applicant donated \$10,000.00 to the Korean students in Champaign, Illinois to help them build a new church. Often members who have moved away from the Danville area continue to contribute to the applicant. (Tr. p. 21-26)

11. Located on the subject parcel is a 884 square foot, one-story, single-family residence. The street address of the property is 212 W. Conron, Danville, Illinois. (Dept. Ex. No. 2 pp. 1, 4; Tr. p. 22)

12. The pastor of the applicant and his family reside in the residence on the parcel. The parsonage is located approximately two miles from the place where the applicant conducts its worship services. The house contains two bedrooms, a kitchen, and living room. (Dept. Ex. No. 2 pp. 3-5; Tr. p. 43-47)

13. At a special meeting of the congregation of the applicant, held on May 11, 1997, the members by resolution sustained the motion to purchase the house on the subject parcel as a

parsonage. (Applicant's Ex. No. 8; Tr. p. 25)

14. On the parsonage questionnaire submitted with the application, to question No. 3, which asks "Is the minister required, as a condition of employment, to reside in the parsonage?" the applicant replied "No." (Dept. Ex. No. 2 p. 3)

15. The applicant was confused by the questionnaire. The confusion was because the applicant had no mandate that the minister had to live in the house on the subject parcel if he did not want to occupy that residence. It was understood that Reverend Chung would want to live in the house provided to him by the applicant. (Tr. pp. 24-25)

16. The applicant has no formal written agreement with the pastor regarding the use of the house on the parcel in question. As long as the pastor serves the applicant as its minister, he and his family are entitled to reside in the house on the subject parcel. The pastor pays no rent for the occupation of the house. The applicant pays him a salary. (Tr. pp. 34-35, 47-48)

17. The applicant makes the monthly mortgage payments on the subject property. (Applicant's Ex. Nos. 12, 13; Tr. p. 30-34)

18. Revival services are held in the parsonage twice a year. Church business and committee meetings are occasionally held in the parsonage. (Dept. Ex. No. 2 pp. 3-5; Tr. pp. 30, 43)

19. Prior to the purchase of the subject parcel, the pastor for the applicant would commute from Kentucky weekly to preach at the services. (Tr. pp. 19-24)

20. In 1984, the applicant pursuant to an affidavit of organization was officially established as a religious corporation. (Applicant's Ex. No. 1; Tr. pp. 14-18)

21. For the past 18 years, the applicant has held its regular weekly Sunday worship services at 1:00 p.m. at the (American) First Presbyterian Church of Danville located at 100 Franklin Street, Danville, Illinois. Members of the applicant attend worship services at the church and then attend the applicant's religious services afterward in a small chapel on the premises. Wednesday Bible study meetings are also held at the church at 6:30 p.m. (Tr. pp. 18-19, 36-37, 42)

22. The minister of the applicant is an active member of the Mid-West Presbytery of Korean-American Presbyterian Church in North America. He is an ordained minister. He is studying for the doctorate of divinity. (Applicant's Ex. No. 6; Tr. pp. 39-42, 45-46)

23. In addition to conducting the services at 100 Franklin Street, the minister also conducts Sunday worship services at 4:00 p.m. at a Presbyterian Church in Champaign, Illinois that is affiliated with the university there. Bible studies are also held in the Champaign church on Mondays. The minister does not have a parsonage in Champaign. (Tr. p. 43-44)

24. The applicant is exempt from payment of Federal Income Tax pursuant to a 501(c)(3) designation from the Internal Revenue Service. (Applicant's Ex. No. 3; Tr. p. 16)

#### Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or

religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The applicant was incorporated as a religious corporation pursuant to the procedures found in the Religious Corporation Act found at 805 **ILCS** 110 *et. seq.* I therefore find that the applicant is a religious organization that owned an interest in the subject parcel. The applicant was unable to obtain financing for the subject parcel in its own name. Dr. Yu, as President of the congregation of the applicant and his wife, as an elder in the church, agreed to be co-signors on the mortgage application for the subject parcel. The applicant has made the payments for the mortgage. I therefore find that the subject parcel was held in trust by Dr. Yu and his wife for the use and benefit of the applicant. The Illinois Courts have held that property will qualify for exemption where it is held in trust for the use and benefit of an exempt organization. *See* People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944), Community Mental Health Council, Inc. v. Department of Revenue, 186 Ill.App.3d 73 (1989).

Property owned by a church and used as a parsonage or monastery was taxable prior to 1957. *See* People ex. rel. Carson Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v.

Methodist Episcopal Church, 315 Ill. 233 (1925)

The Illinois Supreme Court in McKenzie v. Johnson, 98 Ill. 87 (1983) had an opportunity to address the 1957 amendment to the statute that added an exemption for parsonages and monasteries. The court held that the provision granting an exemption for a parsonage used primarily for religious purposes was constitutional. The court also required that the parsonage must reasonably and substantially facilitate the aims of religious worship because the pastor's religious duties required that he live in close proximity to the church or because the parsonage had unique facilities for religious worship and instruction or was primarily used for such purposes.

I find that the residence located on the subject parcel was used for religious purposes. The parsonage was used twice during the taxable year in question for a religious revival. It is also used for religious meetings of the applicant. It has been established that the applicant was confused by the parsonage questionnaire and therefore answered incorrectly the question of whether the minister was required to live in the residence as a condition of his employment. I find that he was required to do so. It has also been established that the parsonage reasonably and substantially facilitates the aims of religious worship and was primarily used for such purposes.

It is therefore recommended that Vermilion County Parcel Index No. 18-32-124-003-0040 be exempted from property taxation for the period of July 15, 1997, through December 31, 1997, or for 47% of the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
March 29, 1999